

REMARKS

Claims 8-11, 13, 14 and 17 are pending.

No new matter has been added by way of the present amendment. For instance, non-elected claims 1-7 and 16 have been cancelled. Also, claims 8 and 9 have been amended in a manner consistent with the Examiner's suggested amendments from pages 5-6 of the outstanding Office Action. Accordingly, no new matter has been added.

Additionally, Applicants respectfully submit that the present claims do not present the Examiner with the burden of additional search and/or consideration. In particular, Applicants have adopted the amendments as suggested by the Examiner. Thus, since the Examiner has already considered these amendments to place the application into condition for allowance, it is presumed that the Examiner has already searched and considered the subject matter. Thus, no new issues have been raised.

In the event that the present submission does not place the application into condition for allowance, entry thereof is respectfully requested as placing the application into better form for appeal.

In view of the following remarks, the Examiner is respectfully requested to withdrawal all rejections and allow the currently pending claims.

**INFORMATION DISCLOSURE STATEMENT FILED JANUARY 19, 2006**

Applicants filed an Information Disclosure Statement (IDS) on January 19, 2006. However, the Examiner has not yet provided an initialed copy of the Form PTO/SB/08 attached to the IDS. Applicants note that when this IDS was filed, the final Office Action dated January

11, 2006 had not yet been received by mail. Accordingly, Applicants simply filed the IDS by certifying that the reference cited in the IDS was first cited in a corresponding Canadian Office Action not more than three months prior to filing the IDS. However, since such certification is only effective pursuant to 37 C.F.R. § 1.97(c)(1), and a final Office Action could have already issued, Applicants drafted the IDS to provide for the fee pursuant to the requirements of 37 C.F.R. § 1.97(c)(2). That is, concurrent with the filing of the IDS Applicants authorized the U.S. Patent and Trademark Office to charge the appropriate fee to Deposit Account No. 02-2448, if necessary. Nonetheless, a review of the relevant Deposit Account does not reveal that the fee, presumably in the amount of \$180, was charged. Accordingly, Applicants hereby request that the U.S. Patent and Trademark Office acknowledge the request to charge the Deposit Account (see request at page 5 of IDS dated January 19, 2006). Further, Applicants request that the Examiner consider the reference cited in the IDS since the IDS was timely filed and complies with the requirements of 37 C.F.R. § 1.97(c)(2).

**ISSUES UNDER 35 U.S.C. § 112, FIRST PARAGRAPH AND § 103(a)**

The Examiner has rejected claim 9 under 35 U.S.C. § 112, first paragraph for the reasons recited at pages 3-5 of the outstanding Office Action.

Additionally, the Examiner has maintained the “103 rejection” (as quoted from Office Action) for “substantially same” reasons as outlined at page 5 of the outstanding Office Action.

Applicants hereby traverse each of these rejections and submit that pursuant to the Examiner’s proposed amendment outlined at pages 5-6 of the outstanding Office Action, the present claims are in condition for allowance. That is, Applicants have adopted the Examiner’s


suggested amendments at Item 5 of the outstanding Office Action (with the exception of canceling claim 8, which Applicants presume to be an error on the Examiner's part. Accordingly, the Examiner is requested to withdrawal all rejections and allow the currently pending claims.

If the Examiner has any questions or comments, please contact Craig A. McRobbie, Registration No. 42,874 at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

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Respectfully submitted,

By  #42.874

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